

1 STATE OF NORTH CAROLINA ) IN THE GENERAL COURT OF JUSTICE  
2 ) SUPERIOR COURT DIVISION  
3 COUNTY OF GUILFORD ) 08-CVS-7917  
4 JOHN LEE MYNARDT, )  
5 Plaintiff, )  
6 vs. )  
7 ELON UNIVERSITY, LAMBDA CHI ALPHA, )  
8 INC., DELTA PI CHAPTER OF LAMBDA )  
9 CHI ALPHA AND CLINTON JOSEPH )  
10 BLACKBURN, JOHN FERRELL CASSADY, )  
11 CHARLES KENNETH CALDWELL, JR., )  
12 DAVID WILLIAMSON WELLS, LINWOOD )  
13 BRADY LONG, BRIAN THOMAS McELROY, )  
14 and WILLIAM JOSEPH HARTNESS and )  
15 ROBERT OLSON, )  
16 Defendants. )

17 The deposition upon oral examination of JOHN F.  
18 CASSADY, taken pursuant to Notice and in accordance with the  
19 North Carolina Rules of Civil Procedure before Rebecca J.  
20 Huddy, Notary Public, at the offices of Pinto, Coates, Kyre  
21 & Brown, 3203 Brassfield Road, Greensboro, North Carolina,  
22 on the 11th day of March, 2009, beginning at 9:30 a.m.

1 and she decorated the house a little bit.

2 Q. How many people came to that party?

3 A. Not too many.

4 Q. What does that mean?

5 A. There was about 40.

6 Q. Okay. All right. And was that -- that wasn't a party  
7 that was registered, was it?

8 A. No, sir.

9 Q. How many times has Chief Gantos been to that house?

10 A. I don't know.

11 Q. Okay. More than once?

12 MR. HARTZOG: Objection.

13 A. Possibly.

14 Q. All right. Now, what about -- what's his name -- Scott  
15 Nelson, do you know Scott Nelson?

16 A. Yes.

17 Q. How many times had he been to 211?

18 MR. HARTZOG: Objection.

19 A. I don't remember. I don't think he'd ever been there.

20 Q. Okay. So you don't think he'd ever been?

21 A. I don't know if either one of them had ever been there,  
22 him or Chuck Gantos.

23 Q. All right. Was Gantos aware that -- did you know  
24 Gantos personally?

25 A. Yes, sir.

1           our house on who was there and made sure that we knew  
2           everyone that was there.

3    Q.    Okay.  And why did you do that?

4    A.    Just we wanted to know -- or we wanted to know who was  
5           there personally or, you know, if it was one of our  
6           friend's friends, they would let us know that they were  
7           with them and, you know, we wanted to know we could  
8           trust them just to be at our house.

9    Q.    And then if someone who was there who was not invited  
10           or known, that's someone that you would feel needed to  
11           be removed from the party or asked to leave?

12   A.    If they were causing trouble, then that would seem  
13           legitimate, yes.

14   Q.    Okay.  All right.  So they would only be asked to leave  
15           if they were causing problems, not if they were  
16           uninvited or you didn't know them?

17   A.    It just depended on who you were dealing with and at  
18           what time it was and -- but -- can you repeat the  
19           question.

20   Q.    My question is, there's been, I guess, defenses raised  
21           in this case that Lee Mynhardt was uninvited and he was  
22           a trespasser at this party, and I'm just exploring that  
23           a little bit with you.

24   A.    Uh-huh.

25   Q.    And as I understand what you're saying, when you had

1           these parties either at 211 or Sunset or Sheridan, you  
2           didn't have a guest list, did you?

3                       MR. TIERNEY:  Objection.

4   A.   No, sir.

5   Q.   All right.  So -- and if someone came in that you  
6           didn't necessarily recognize but they appeared to be a  
7           college student at Elon, you didn't immediately as a  
8           rule throw them out because they weren't invited,  
9           correct?

10  A.   Correct.

11  Q.   Okay.  So you made a decision as to whether or not  
12           somebody needed to be asked to leave or thrown out of  
13           the party, right?

14  A.   Just depending on the factors surrounding it.

15  Q.   Sure.  And -- but it wasn't an absolute that if they  
16           were uninvited, they shouldn't be there, true?

17  A.   True.

18  Q.   Okay.  And in 2007 when these events occurred, did you  
19           understand that as a person who possessed that house --  
20           you understood you rented the house, right?

21  A.   Uh-huh.

22  Q.   You understood that?

23  A.   Yes, sir.

24  Q.   You and your roommates?

25  A.   (Witness nods head)

1 quick break?

2 MR. DANIEL: Sure.

3 (Brief recess)

4 Q. All right, sir. We're back on the record. You  
5 understand that you're still under oath?

6 A. Yes, sir.

7 Q. All right. You can refer to Exhibit 3 if you want to,  
8 but it looks like the floor at 211 where the kitchen is  
9 and into the living room was kind of a -- what was that  
10 material?

11 A. Like a linoleum material.

12 Q. All right.

13 A. Yes.

14 Q. And the party that -- where Lee was hurt, do you  
15 remember that party?

16 A. Yes, sir.

17 Q. Okay. It was kind of snowing out that night or  
18 sprinkling rain or slush? Is that your recollection?

19 A. I remember the week -- and it might have been that day  
20 as well, but the week before it was -- it was very  
21 rainy and it was still in February. It was fairly cold  
22 as well.

23 Q. Okay. And you guys had a -- obviously you had a keg in  
24 the house?

25 A. Yes, sir.

1 Q. You were playing beer pong?

2 A. Yes.

3 Q. Okay. And all of these things, keg, ice, beer pong,  
4 and if it's wet outside, those are things that can  
5 track it onto the floor or spill onto the floor, right?

6 A. Yes, sir.

7 Q. And that's something that you would have been aware of?  
8 In other words, that's a possibility that you would  
9 have been aware of back when this party was going on?

10 A. Yes.

11 Q. That the floors could get slippery?

12 A. Yes.

13 Q. All right. And was there any efforts made to check the  
14 floors to see if they were becoming slippery or to put  
15 sawdust down on the floors or salt or mop the floors or  
16 anything of that nature during the course of this party  
17 that you recall?

18 A. I did not do anything like wipe up the floors. I can't  
19 speak for my roommates or anybody else there, but I  
20 didn't --

21 Q. Okay.

22 A. -- do anything to prevent it from being slippery.

23 Q. All right. And you recognized that someone could have  
24 slipped and fallen on the floor?

25 MR. TIERNEY: Objection.

1 just -- neither of us had talked to him for a while and  
2 we wanted to see how he was doing.

3 Q. All right. And tell me what happened. What  
4 happened -- describe for me what happened that led to  
5 Lee getting hurt.

6 A. Well, we were talking in the hallway --

7 Q. Yep.

8 A. -- just talking about -- Jackson Kerzinso [phonetics]  
9 is his name and I -- like I said, I had to go to the  
10 bathroom and I knocked on the door, noticed the door  
11 was closed and locked, so I knocked on the door, and I  
12 thought I heard someone say, Hold on, just a second.

13 And then -- so, you know, we were in a  
14 conversation, so didn't think much of it, and I didn't  
15 have to go to the bathroom, you know, really bad, so we  
16 were just talking, and then a few minutes later, I  
17 don't know how long, maybe five, five to ten minutes --  
18 I mean, it was a while, a few minutes later, I was like  
19 thinking to myself, you know, didn't somebody just say  
20 Hold on in the bathroom.

21 So I knocked again and I didn't hear anything  
22 this time. So what went on in my mind was that, well,  
23 maybe nobody's in the bathroom, maybe I just heard  
24 somebody from my room, which is very close, say  
25 something and thought that was Hold on from the

1 bathroom.

2 So I ultimately went into the bathroom  
3 thinking that no one probably was in there, that it  
4 was -- in my house I had actually done it before,  
5 locked the inside lock, locked it from the inside and  
6 then accidentally closed it. I'd done it in my room.  
7 So I knew -- I was like, well, maybe that's what  
8 happened.

9 So I took out a credit card or some kind of  
10 card in my wallet and just got in with that, thinking  
11 that no one was going to be in the bathroom.

12 Q. Okay. So then what happened? Let me ask you this,  
13 though, about that. So you took your credit card and  
14 you slid it between the door?

15 A. Yes, sir.

16 Q. And so you would have pushed your credit card up  
17 against the curved side of the hammer and pushed the  
18 hammer back?

19 A. Right.

20 Q. Okay. Go ahead.

21 A. I guess that's how it works.

22 Q. Yeah.

23 A. So anyways, so I walked in with the intention that  
24 maybe -- I thought no one was there, you know, but I  
25 thought I might have heard something, I wasn't

1 positive, but -- and when I walked in my bathroom,  
2 there's a countertop on the left side, the whole left  
3 side of the bathroom, and I saw two people over there  
4 and I was kind of shocked. I mean, I didn't know why  
5 people were in my house, you know. I didn't recognize  
6 them.

7 So I -- I told them, I was like, Will y'all  
8 get out of my house, you know, Will you please get out  
9 of my house. And then the door closed, but I caught it  
10 before it closed the first time, and then I said, Will  
11 y'all please get out of my house.

12 And then the next thing that happened was the  
13 door closed again, and this time it was still locked,  
14 because when you open a door like that, it's still  
15 locked and -- so I was locked out again of the  
16 bathroom, and I was getting pretty upset, because I had  
17 told these people to leave my house a couple times and  
18 it seemed like they were refusing to.

19 So I got upset and I yelled, Will y'all get  
20 the fuck out of my house. I was pretty upset at the  
21 time, because I didn't know these people, I wasn't  
22 prepared to see that, and so that's when -- by the way,  
23 when I was in there, I remember seeing a girl sitting  
24 on the countertop and a guy was sitting -- standing up,  
25 and the girl had her shirt off -- I don't know if it

1 was just undone or if it was completely off, but I  
2 remember seeing a bra, but -- and I -- I just figured  
3 two people were hooking up that I didn't know in my  
4 bathroom and it seemed kind of awkward and it seemed  
5 just very, very shocked that it was going on.

6 And then once they refused basically to get  
7 out, I got upset and raised my voice a little bit, and  
8 that's when -- the third time -- I believe it was --  
9 yeah, after the third time that I said to get out of  
10 the house and I raised my voice, Mr. Mynhardt came  
11 outside of the bathroom and he seemed mad because I was  
12 yelling at them, and he approached me, seemed pissed  
13 off and he pushed me a couple times just in the chest  
14 area, not pushed me down or anything, pushed me real  
15 hard, but I felt fairly threatened.

16 And then I -- and I've never been the type of  
17 person to ever get in a fight. I've actually never  
18 gotten in a fight in my life, so I -- and Clint  
19 Blackburn knows that. He's -- I've known him for a few  
20 years and he knew that, and I think that's why he -- he  
21 grabbed Lee, to stop him from -- because I'm not that  
22 type of guy to get in a fight and I know he knew I felt  
23 threatened and that's why I imagine that he grabbed  
24 him, and right when he grabbed him, he said -- he  
25 grabbed him like in a bear hug at first to -- because

1 his arms were out like pointing fingers at me and  
2 pushing me and he wanted to get control of his arms.

3 And that's when Clint said, Jack, get the  
4 door, I'm going to get this guy out of here. So  
5 that -- ultimately what I wanted is just for them to  
6 leave, because that's what I wanted from the start, and  
7 then especially I felt very threatened, I wanted them  
8 out of my house, didn't know these people.

9 Q. Uh-huh.

10 A. And that's when -- when we -- Clint told me that, and  
11 so I'm walking to the door down the hallway.

12 Q. Was that to help him get him out of the house?

13 A. Right -- oh, I was going to open the door because Clint  
14 had his hands full.

15 Q. That was to facilitate the removal of Lee from the  
16 house, right?

17 A. To --

18 Q. That's what -- you were doing that to help him get him  
19 out of the house?

20 A. Yes, sir -- open the door?

21 Q. All right. Yeah, okay. Go ahead.

22 A. So I'm in front of them, you know, a few steps. I  
23 mean, obviously I'm being -- I'm quicker than them, you  
24 know. I was glancing back to see what was going on,  
25 you know, and when I got -- where's that -- well --

1 (Cassady Exhibit No. 6 was marked for  
2 identification by Mr. Daniel.)

3 Q. Exhibit 6 you're looking at is a diagram. I think it  
4 was drawn as a part of the investigation. This is what  
5 you're looking at. If you could -- if it helps you, go  
6 ahead.

7 A. Well, the bathroom was here (Indicating) and then as  
8 they got -- they were -- you know, like I said, I was  
9 in front of them, so I glanced back, I saw Lee was --  
10 was fighting to get out of the hold.

11 Q. What hold?

12 A. The bear hug hold.

13 Q. All right.

14 A. And then when they got close to the living room area, I  
15 guess it's where that X is, he got out kind of down on  
16 a knee and got out, and that's when Clint regripped on  
17 him. He regripped him into a hold -- like a nelson  
18 type hold --

19 Q. Okay.

20 A. -- just to -- because he was getting out, his arms --  
21 you know, he was getting out of the hold and he wanted  
22 to have a better grip on him in order to get him out of  
23 the house.

24 Q. Uh-huh. Is that when he got him into the full nelson?

25 A. Yes, sir.

1 Q. All right. Go ahead.

2 A. And then so that's when -- you know, he said it again,  
3 he said, Jack, go get the door, you know, I'm going to  
4 get this guy out of here.

5 And that's when I went and I opened the door,  
6 and as I was opening the door, I'm not sure how it was  
7 instigated, but they fell, and when I was opening the  
8 door -- I don't know if it was when the door was  
9 completely open or if while I was opening it, but I saw  
10 them hit. I saw Lee hit his head very hard on the  
11 floor right -- they were close to the door, I mean,  
12 very close to just getting him out and it being over, a  
13 few feet, a couple yards, you know, that close, and  
14 that's when -- when Clint -- where was I?

15 Q. They fell -- they fell and Lee hit his head hard.

16 A. Right.

17 Q. Yeah.

18 A. Lee hit his head really hard, and from then, you know,  
19 I -- I believe that I saw -- I believe Lee was on his  
20 back and I remember everybody saying like, Get up, you  
21 know, You're fine, and -- you know, I personally  
22 thought that he hit his head and it kind of stunned  
23 him.

24 Q. What part of his head hit the floor hard?

25 A. I believe it was the side. It could have been the

1 back, but it was one -- in this area (Indicating), from  
2 what I remember.

3 Q. And you're motioning to the back side above the ear?

4 A. Yes, sir.

5 Q. Okay. Go ahead.

6 MR. WENDLING: On the right?

7 Q. On the right?

8 A. Yeah, on the right, yes, sir.

9 MR. DANIEL: Thank you.

10 A. And I remember right after it happened, Clint kind of  
11 fell on top of him a little bit and -- but not like --  
12 Clint didn't fall extremely hard, but -- because I  
13 remember him getting up fairly quickly and -- but what  
14 I saw mostly was just his head hit that linoleum floor  
15 really hard, and right after that happened, I saw  
16 someone kick him, and I'm not 100 percent sure of who  
17 that was, but I did see a kick occur, not a very hard  
18 kick and it seemed like it was in the side.

19 Q. You don't know who kicked him?

20 A. I'm about 95 percent sure that it was Brady Long, but  
21 I'm not 100 percent sure about that.

22 Q. Okay.

23 A. And so from there --

24 Q. Where did Brady Long kick him?

25 A. It was in the side.

1 MR. TIERNEY: Object to form.

2 Q. Okay. All right. So Brady Long you're 95 percent sure  
3 kicked him?

4 A. 90, 95. I wasn't -- I was looking at Mr. Mynhardt on  
5 the ground and I saw a kick occur and I'm pretty sure  
6 it was him.

7 Q. Brady Long is a friend of yours, right?

8 A. Yes, we've known each other for -- since first of  
9 college. He lived in my dorm.

10 Q. Okay. You don't have anything against Brady Long, do  
11 you?

12 A. No, no, I do not.

13 Q. Okay.

14 A. We've always been friends.

15 Q. All right. Go ahead. Did you hear Lee say, I can't  
16 move my legs?

17 A. Well -- so after that happened, I remember Lee was  
18 like, No, I'm hurt, and everybody -- and everybody that  
19 was there was like, No, you're fine, just get up, and  
20 Mary Kate was like, Just get up, we need to go,  
21 encouraging him to get up.

22 And then that's when -- I was like -- I told  
23 Chad Caldwell, I said, Chad, let's get him up and get  
24 him out of here. So we lifted him up from the  
25 position -- he was already close to the door, so we

1       lifted him up and we had not moved very far and we were  
2       on the threshold of the inside and outside and his legs  
3       were going outside first and I -- and he was like, No,  
4       no, like really, I'm seriously hurt, getting angry  
5       because he -- you know, he knew what he was feeling and  
6       we couldn't -- you know, I didn't believe him, though,  
7       at first, because he -- I didn't know him, he was in my  
8       house, he seemed to want to fight me, seemed fairly  
9       belligerent at first, and so I didn't -- but I didn't  
10      know and I didn't believe him.

11             But finally, you know, he was like, No, this  
12      is serious, like let me down. So I was like, Chad,  
13      let's just let him down, and so we let him down right  
14      there at that threshold like I said.

15             From then I remember everybody still -- like  
16      Lee was upset. It was hard for me to understand him,  
17      because -- and I didn't know this at first, but he has  
18      an accent and I didn't know what he was saying at  
19      first, so I couldn't tell what he was saying, but -- I  
20      mean, I was just like, Please, just get up, you're  
21      okay, and everybody was saying that, and I don't know  
22      when exactly it was, but I turned around and -- I mean,  
23      everybody thought that it was just -- it was just he  
24      hit his head hard and he seemed kind of stunned and it  
25      wasn't anything that serious.

1 I didn't think it was that serious and I wasn't -- I  
2 didn't believe Lee at the time. I just thought that he  
3 was being belligerent, and finally once you hear  
4 something enough, you know, I just -- it triggered me  
5 to think, yeah, this -- something is serious here.

6 Q. Okay. If you'd have believed him initially, you  
7 wouldn't have moved him, right?

8 A. Right, absolutely.

9 Q. All right. Now, how much had you had to drink that  
10 night?

11 A. I didn't have that much. I mean, we had to get up for  
12 the -- it wasn't -- no one was planning on, you know,  
13 drinking a whole lot. We had to get up for the Wing  
14 Bowl the next day, set up for that and get everything  
15 ready for that, and I had gotten back and I -- probably  
16 throughout the course of the night from -- started  
17 about 8:30, I had about eight beers.

18 Q. Okay. And what do you mean by eight beers? Do you  
19 mean cups?

20 A. Yeah, just --

21 Q. How big were the cups, sixteen ounces?

22 A. No. The cups that they give you aren't -- they're not  
23 even twelve ounces. They're like --

24 Q. Okay.

25 A. -- ten ounces or -- I'm not sure, eight ounces -- no,

1 A. I don't know.

2 Q. All right.

3 A. I mean, I couldn't tell you.

4 Q. All right. You know Clint pretty -- you've known him  
5 since you were a kid, right?

6 A. Since about high school.

7 Q. All right. Were you guys charging -- I don't have any  
8 reason to think you were, but were you charging guests  
9 for beer?

10 A. Usually what happened was, he -- the Epsilon would  
11 collect money from fraternity members, and also other  
12 guests, friends that showed up would pay for it as  
13 well.

14 Q. Okay. All right. Do you know whether or not that was  
15 done this night?

16 A. I'm not sure. Usually it is.

17 Q. Okay.

18 A. But I'm not positive about that.

19 Q. All right. Do you know Mary Kate Kelly, Mary Katherine  
20 Kelly?

21 A. No, I don't.

22 Q. Did you know her before this event occurred?

23 A. No, sir.

24 Q. Have you ever talked to her about what happened?

25 A. No, sir.

1 Q. So you know of no reason that she would have to lie  
2 about what happened that night?

3 MR. WENDLING: Objection.

4 Q. Do you know of any motivation she would have to be  
5 untruthful?

6 A. The fact that I didn't know her and she did know Lee,  
7 that could be a reason to. But other than that, I  
8 mean, we didn't know each other, so she has nothing  
9 against me.

10 Q. Okay. You said the fact that you didn't know her and  
11 the fact that she didn't know Lee. What are you --

12 A. She did know Lee.

13 Q. Oh, I got you, I got you, I got you. Other than that?

14 A. No.

15 Q. Any other thing you're aware of?

16 A. No, sir.

17 Q. When you saw them in the bathroom, you say that Mary  
18 Kate's shirt was unbuttoned to where her bra was --

19 A. I did see her bra and I don't know if it was off or  
20 unbuttoned, but I remember seeing her bra.

21 Q. Okay. All right. So was she wearing a tank top? Was  
22 she wearing a button-up shift?

23 A. I don't recall.

24 Q. And did Lee have any of his clothes off?

25 A. I'm not positive. I don't think so, though.

1           what is beer pong?

2       A.     Just a game, you throw a pingpong ball into a beer cup  
3           across the table.

4       Q.     Okay. Were you guys ever caught doing that at the  
5           fraternity house when you weren't supposed to?

6       A.     I believe so while I was living there, yes, sir.

7       Q.     All right. When Clint had Lee either in a bear hug or  
8           in a full nelson, there was a passage of time during  
9           which you could have told Clint to let Lee go, correct?

10      A.     Yes, sir.

11      Q.     All right. And you did not do that, correct?

12      A.     No, sir.

13      Q.     Did Lee ever threaten you verbally?

14      A.     When he came out of the bathroom, I felt threatened.  
15           He was yelling at me. I don't know what he was saying.  
16           Seemed like he was cussing at me, but I can't be sure  
17           of that, and so I -- yes, verbally I felt threatened.

18      Q.     Okay. Other than the whatever he was saying that you  
19           couldn't understand, I'm asking if there's any specific  
20           thing he said to you that you're going to testify to in  
21           this case that made you feel threatened, any specific  
22           words that you can tell me.

23      A.     No, sir.

24      Q.     Okay. You understood that if you felt -- or you  
25           understood that if Lee had attacked you physically, you

1 Q. Do you remember what his head did?

2 A. I do not, no, sir.

3 Q. Do you remember whether it flopped backwards?

4 A. I don't think it did. I can't remember, though, no,  
5 sir.

6 Q. Okay. You can't remember whether he could control his  
7 head when you lifted him up by his armpits?

8 A. No, sir.

9 Q. Do you remember his arms moving at all after he fell?

10 A. No, sir, I mean, I wasn't looking for -- looking at his  
11 arms and -- because I didn't think that the incident  
12 was this bad, you know. I didn't think it was going to  
13 turn out that bad, so I wasn't prepared to look for  
14 that at the time, so no, sir, I don't recall his arms  
15 moving or not moving.

16 Q. Okay. Were you underage at this time?

17 A. Yes, sir.

18 Q. Do you know how many underage people were drinking at  
19 that party other than you?

20 A. Probably about a third of them.

21 Q. And was this a typical fraternity party?

22 MR. HARTZOG: Objection.

23 MR. TIERNEY: Objection.

24 A. No, it wasn't -- it wasn't -- you know, it wasn't -- it  
25 was inside because it was cold and rainy outside, so

1 something we went over in every Chapter or whatnot.

2 Q. Were there certain people at Lambda Chi that were  
3 responsible for registering the official registered  
4 Lambda Chi parties when you had those?

5 A. It was usually either the President or the Epsilon,  
6 which is the Social Chair.

7 Q. And do you personally know what the President and the  
8 Epsilon would be required to do to register a party  
9 with the university?

10 A. I just know they have to fill out some paperwork and  
11 send it to the Greek life office, but I don't know what  
12 the paperwork states.

13 Q. Okay. Because you had somebody else at Lambda Chi that  
14 was doing that, you didn't have to know all those  
15 things; is that right, yourself?

16 A. Yes, sir.

17 Q. But you knew that somebody there had to know those  
18 rules and comply with them?

19 A. Yes, sir.

20 Q. And you knew that there were written forms that had to  
21 be filled out for the university and turned in before  
22 you could have a Lambda Chi party?

23 A. Yes, sir, a registered party.

24 Q. A registered party. And you knew that to have a  
25 registered party at the Lambda Chi house, you had to

1 Q. And you're not aware of any complaints about noise that  
2 night?

3 A. No, sir.

4 Q. And you had no visits from the police that night before  
5 this incident happened?

6 A. I don't remember any, no, sir.

7 Q. And 211, for the record, is off campus, isn't it?

8 A. Yes.

9 Q. And so are all these other places that you described  
10 where Lambda Chi's live and where y'all might have had  
11 gotten together for parties?

12 A. Yes, sir.

13 Q. They're all off campus?

14 A. Yes, sir.

15 Q. The only Lambda Chi facility that is known as Lambda  
16 Chi that's on campus is the Lambda Chi house that's got  
17 the letters on the outside; isn't that right?

18 A. Yes, sir.

19 Q. Did 211 have any Lambda Chi markings on the outside of  
20 it?

21 A. No, sir, not on the outside.

22 Q. Did any of these other off-campus places where Lambda  
23 Chi's live?

24 A. No, sir.

25 Q. And so this party, whatever you want to call this party

1           you had at 211 that night, you definitely did not  
2           register this party with the university, did you?

3    A.    No, sir.

4    Q.    And you're not aware of anybody notifying any Elon  
5           official that this party was taking place that night,  
6           are you?

7    A.    I'm not aware, no, sir.

8    Q.    Was the front door to that house the one that faced the  
9           street? Is that what you call the front door?

10   A.    Yes.

11   Q.    And was that door open that night?

12   A.    It wasn't. We blocked that door off just to control  
13           the traffic in and out of the house and, you know, kind  
14           of control who was coming in and out, and so we just  
15           blocked it off with a table, I believe.

16   Q.    Okay. So it really -- you would have had to go way out  
17           of your way to even open that door at all that night?

18   A.    Yes, sir.

19   Q.    And so the door that -- if anybody came in and out of  
20           that house at night, they came in and out of that side  
21           door which has been marked on Exhibit 6 as the one at  
22           the kitchen?

23   A.    Yes, sir.

24   Q.    And that door does not face the street?

25   A.    No, sir, it doesn't.

1 because it wasn't registered, I didn't see it being a  
2 fraternity event. Looking back on it, it's hard to  
3 really tell if it was or wasn't considered that to me  
4 and I might have said that, yes, sir.

5 Q. And looking back on it, isn't it also true whether it  
6 was an official event or a non-official event, isn't it  
7 also true that looking back on it, whether it was a  
8 fraternity party by the Chapter or just a party  
9 sponsored by the tenants, you and your other roommates?  
10 Isn't that also true?

11 MR. DANIEL: Object to form.

12 A. Can you repeat that, I'm sorry.

13 Q. Right, sure. You've been making a distinction in your  
14 testimony between an official fraternity event. Why  
15 don't you tell me, what do you think an official  
16 fraternity event is?

17 A. Like I said, when I hear official fraternity event, I  
18 think of a registered event, something that is  
19 registered. Usually it's at the fraternity house. It  
20 could be elsewhere, an event with a sorority that we  
21 do, you know, you might have a mixer thing at a bar or  
22 just a bowling alley, any kind of event like that.  
23 It's registered and the fraternity sponsors it as a  
24 whole. Lambda Chi Alpha, Elon sponsors it when it's  
25 like that, but when it's at an individual's house, then

1 it's not sponsored if it's not registered.

2 Q. And by sponsored and registered, you mean actually  
3 filling out forms?

4 A. Yes, sir.

5 Q. And for an official event where you have to fill out  
6 these forms, were there forms you had to send to Elon?

7 A. I believe so.

8 Q. Were there also forms you had to send to Nationals?

9 A. I believe so also.

10 Q. Now, at the time this happened, you had previously been  
11 what, the Treasurer?

12 A. Previously been the Treasurer, yeah.

13 Q. And you were not responsible as Treasurer for filling  
14 out any of these forms whether to Elon or to Nationals?

15 A. That was mainly the Secretary's job. If he needed a  
16 check to go to Nationals for fraternity National dues,  
17 then I would, you know, write that, but I didn't have  
18 any context of filling out the paperwork.

19 Q. All right. That was somebody else's job to do that?

20 A. Yes, sir.

21 Q. All right. And as far as who the Iota was, who was the  
22 Iota at the time of this incident?

23 A. Like I said, we were just starting our new positions  
24 and I believe it was Phil Collins, but the previous  
25 Iota was Mark Horsborough.

1 A. I like kicked. That sounds good, like he said.

2 Q. Kicked, okay. Youngest lawyer in the room got it  
3 right. Okay. All right. So what I'm trying to get a  
4 fix on is, when the keg was empty or kicked and -- what  
5 time did the bars close in February of '07, do you  
6 remember?

7 A. They closed at 2:00.

8 Q. Okay. And do you recall anybody leaving the party to  
9 go to get a drink at a bar because the keg was kicked?

10 A. I don't think so.

11 Q. Okay. Do you believe based on your recollection  
12 sitting here today of everything else, was that keg  
13 kicked before 2:00 a.m.?

14 A. It's possible it could have been a little bit after.  
15 Like I said, the event happened about 2:30 or 3:00 and  
16 I remember sitting in the room at least for, you know,  
17 ten or fifteen minutes at least, maybe more, and that  
18 time frame might not be exactly right, but it should be  
19 close. It could have been a little after 2:00, though,  
20 possibly.

21 Q. All right. Do you know what time Mynhardt and Kelly  
22 arrived at the party?

23 A. I do not, no, sir.

24 Q. Did you ever see either of them pour a beer out of the  
25 keg or drink any beer at the party?

1 Q. Okay. So during that five to ten minutes that you were  
2 standing outside the bathroom door, thinking back on  
3 it, was there any way there could have been 20 people  
4 in the kitchen and living room and you not notice that?

5 A. No.

6 MR. DANIEL: Object to form.

7 A. I don't see that happening at all, not at all.

8 Q. Okay. All right. Let's go back to the rent for 211  
9 Lee Street. Did you sign the lease?

10 A. Yes, sir.

11 Q. Okay. To your knowledge, did your other two roommates  
12 sign the lease?

13 A. Yes, sir.

14 Q. And were you and your two roommates the only people  
15 that paid rent?

16 A. Yes, sir.

17 Q. So the Delta Pi Chapter did not chip in any money to  
18 help you and your roommates pay rent at 211 Lee, did  
19 they?

20 A. No, sir.

21 Q. All right. And the same thing with Nationals,  
22 Nationals didn't pay any money to help you pay the rent  
23 at 211 North Lee?

24 A. No, sir.

25 Q. All right. That was a private home that you and your

1 roommates signed a lease contract for, correct?

2 A. Yes, sir.

3 Q. Okay. And Nationals didn't sign that lease, did they?

4 A. No, sir.

5 Q. Okay. Did Delta Pi Chapter sign that lease?

6 A. No, sir.

7 Q. The incident that you talked about with the beer pong  
8 and the social probation, did that happen at the  
9 Chapter house on campus?

10 A. I believe so, yes, sir.

11 Q. Okay. And there is only one Chapter house, right?

12 A. Yes, sir.

13 Q. Okay. And that is a Chapter house that is the official  
14 Chapter house on campus?

15 A. Yes, sir.

16 Q. And there's letters outside to signify that this is the  
17 Lambda Chi house?

18 A. Yes, sir.

19 Q. Okay. Let's talk about representatives from Nationals  
20 that came down to actually visit the Chapter. How  
21 frequently did that occur?

22 A. Once a semester.

23 Q. All right. And was there a particular name for the  
24 person from Nationals that came by to visit?

25 A. I can't think of it. It's like the field advisor or --

1 bit and I didn't want to get involved in a fight or  
2 anything, so --

3 Q. All right. Now, there's been some testimony from Mary  
4 Kelly in her deposition yesterday that people in the  
5 hallway were banging and yelling and screaming  
6 obscenities for them to get out of the bathroom. Did  
7 that happen, do you remember?

8 A. Like I said, I -- the third time that I yelled, I  
9 yelled pretty loud to get the fuck out of my house. I  
10 was upset and wanted them out of the house.

11 Q. Okay.

12 A. So that's -- I imagine that's what she heard or whoever  
13 heard.

14 Q. All right. Well, was there anything at all involved in  
15 this event that you wanted Lee Mynhardt out of the  
16 house because the tenants of the home were members of  
17 Lambda Chi fraternity?

18 A. That didn't cross my mind when it was going on, no,  
19 sir.

20 Q. Okay. And Clint Blackburn, is he a Lambda Chi?

21 A. No, sir.

22 MR. TIERNEY: All right. I believe that's all  
23 I have. Thank you.

24 MR. PETTY: Do y'all want to break for lunch  
25 real quick?

1           them was asleep and one of them wasn't there and I felt  
2           an obligation since it was my house -- I mean, if  
3           something ever happened at another house and if one of  
4           my friends was involved and, you know, if he needed my  
5           help, I mean, obviously I would help him, but I don't  
6           think I would feel an obligation to do that.

7    Q.    Okay. And when Mr. Blackburn was -- had Mr. Mynhardt  
8           in either a bear hug or the full nelson, were you ever  
9           punching him?

10   A.   No, sir.

11   Q.    Did you ever punch him?

12   A.   No, sir.

13   Q.    Did you ever kick him?

14   A.   No, sir.

15   Q.    Other than either moving him in or moving him out, did  
16           you ever touch Mr. Mynhardt?

17   A.   That was the only time I touched him, yes, sir.

18   Q.    Okay. And when Ms. Kelly was asking for the address or  
19           when EMS came or the police came, do you ever recall  
20           anyone saying that this was the KA house?

21   A.   Not that night. I remember the next day I went to the  
22           Wing Bowl, although I didn't really -- I didn't really  
23           go in, but I remember talking to someone there that  
24           said -- they said, Something happened at Brown House,  
25           too, which is the KA house, parallel to my house on the

1 Q. Okay. How long --

2 A. -- but -- I mean, after a few minutes, I mean,  
3 everybody for a few minutes was just trying to tell him  
4 to get up and get out and it just seemed like it was  
5 probably about five, five to ten -- I don't know time  
6 at that point. It was like five to ten minutes, I'd  
7 say.

8 Q. Maybe hard to estimate how much time --

9 A. Yeah, yeah, I'm sorry.

10 Q. And it sounds like -- if I'm understanding you  
11 correctly, it sounds like everybody's attitude at that  
12 time was -- nobody really thought that Lee was hurt?

13 A. No, not at first. I mean, I definitely didn't,  
14 thinking -- I didn't know him and he started kind of  
15 being aggressive towards me and I thought he seemed a  
16 little belligerent and I didn't believe him, thought he  
17 might be a little stunned. I saw his head hit hard,  
18 like I said, and I didn't believe him at the time, no.

19 Q. From your point of view, the party was over at that  
20 point?

21 A. Yes, sir.

22 Q. And you wanted him out of the house?

23 A. Yes, sir.

24 Q. And if I'm understanding you right, you remember that  
25 Chad Caldwell assisted you in moving him from where

1           you've drawn his body towards the side door?

2     A.    He had just -- we moved him with his feet first towards  
3           the door, yes, sir.

4     Q.    Okay. And it's your recollection it was Chad Caldwell  
5           who got -- that had the feet?

6     A.    Yes, sir, I'm pretty sure.

7     Q.    Okay. Now, on that point, you had some conversations  
8           with the police about moving Lee Mynhardt after he'd  
9           fallen down. Do you remember that? Do you remember  
10          talking to the police about that?

11    A.    That night or --

12    Q.    No, like February, maybe -- I think you talked with the  
13          police -- I've got transcripts of an interview February  
14          3 and another one February 5.

15    A.    Yes, sir.

16    Q.    Okay. And my review of those transcripts is that you  
17          were unable to remember when you were talking to the  
18          police who it was that helped you move Lee.

19    A.    That's possible. I remember thinking it was either  
20          Brady or Chad, because their build seems very similar,  
21          but I thought I remembered it being Chad, and I don't  
22          know -- remember if I said that or not in those -- but  
23          I'm pretty sure I remember it being Chad that helped me  
24          pick him up, move him a couple feet.

25    Q.    And how far off the ground do you believe -- and we'll

1 use Lee's butt, since that would have been halfway  
2 between you and Chad if you were the two moving him.

3 A. All right.

4 Q. How far off the ground do you believe Lee's fanny got?

5 A. We didn't ever lift him up, you know, real high, just  
6 far enough off the ground where he wasn't dragging just  
7 to get him up maybe a couple feet off the ground.

8 Q. And be as specific as you can as to how far you  
9 remember moving him at that point.

10 A. Well, in the picture, if he's here, we moved him to --  
11 his -- one or both, I'm not positive, of his legs were  
12 out the door, out the threshold of the door, and I'd  
13 say that's probably a yard and a half or so.

14 Q. Now, with respect to one or more of his legs being out  
15 the door, are you talking -- how much of the legs do  
16 you remember being out?

17 A. I just -- I remember when we -- a little bit later on,  
18 I can't remember even who did it, Mary Kate was like,  
19 His legs are outside or one of his legs are outside,  
20 he's cold, put his leg back inside, and I can't  
21 remember who did that, but -- so it wasn't very far. I  
22 mean, it wasn't -- it was a foot maybe out the door,  
23 the leg was.

24 Q. Okay. And that's what I wanted to get into next. Were  
25 there sort of two separate things that happened, one,